

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TRISTAN JAN SWOKOWSKI,

Plaintiff,

v.

Case No. 21-cv-0817-bhl

MANITOWOC COUNTY JAIL,

Defendant.

DECISION AND ORDER

Plaintiff Tristan Jan Swokowski is a prisoner confined at the Manitowoc County Jail who is representing himself in this 42 U.S.C. §1983 case. Along with his complaint, Swokowski filed a motion for leave to proceed without prepaying the filing fee. Dkt. Nos. 1-2. The Prison Litigation Reform Act applies to this case because Swokowski was incarcerated when he filed his complaint. 28 U.S.C. §1915. That statute allows prisoners to proceed without prepaying the full filing fee if, when funds exist, they pay an initial partial filing fee. *Id.* On July 6, 2021, the Court ordered Swokowski to pay an initial partial filing fee of \$37.67 by August 5, 2021. Dkt. No. 4. The deadline has passed, and Swokowski has neither paid the fee nor explained to the Court why he is unable to do so.

IT IS THEREFORE ORDERED that this case is **DISMISSED without prejudice** based on Swokowski's failure to pay the initial partial filing fee. Because the dismissal is without prejudice, Swokowski may refile his complaint at a later date, subject to the relevant statute of limitations. Alternatively, Swokowski may file a motion to reopen the case within twenty-one days, explaining why the Court should excuse his failure to timely pay the initial partial filing fee.

Swokowski must pay the initial partial filing fee or explain why he is unable to do so before the Court will consider a motion to reopen the case.

IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. §1915(b)(1), Swokowski must pay the \$350 statutory filing fee. Accordingly, the agency having custody of Swokowski shall collect from his institution trust account the \$350 statutory filing fee by collecting monthly payments from Swokowski's prison trust account in an amount equal to 20% of the preceding month's income credited to the prisoner's trust account and forwarding payments to the Clerk of Court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. §1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action. If Swokowski is transferred to another institution, the transferring institution shall forward a copy of this Order along with Swokowski's remaining balance to the receiving institution.

IT IS FURTHER ORDERED that copies of this order be sent to the officer in charge of the agency where Swokowski is located.

Dated at Milwaukee, Wisconsin this 12th day of August, 2021.

BY THE COURT:

s/ Brett H. Ludwig
BRETT H. LUDWIG
United States District Judge